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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,979	02/19/2002	Timothy J. Mousley	GB 010027	6517

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EXAMINER

MEHRA, INDER P

ART UNIT PAPER NUMBER

2666

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/078,979	Applicant(s) MOULSLEY ET AL.	
	Examiner Inder P. Mehra	Art Unit 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/11, 2/19/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to application dated: 2/18/02. Claims 15 are pending.

Specification

2. The disclosure is objected to because of the following informalities:

Specification is not organized in prescribed format.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

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(I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

Abstract

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Abstract recites, "The selection may be performed in secondary station----or shared between primary and secondary station". What is shared between primary and secondary station? Further, does it mean that selection of primary station is performed in the secondary station?

Appropriate clarification/correction is required.

Claim Objections

4. Claims 2-3, 5-10 and 12-14 are objected to because of the following informalities:

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Claims 2-5 recite "a primary station" in line 1. Change "a" to "the" to satisfy antecedent basis. Similar problem exists in claims 5-10 and 12-14.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the value of at least one metric" in line 3. There is no antecedent basis for this limitation in the claim. Similar problem exists in claims 7-9

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1,4,10-12, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by

Schilling et al (US Patent Application No. 2002/0094013), hereinafter, Schilling.

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For claims 1, 4, 11 and 15, Schilling discloses, in reference to fig. 3, . A radio communication system having communication channels (f1) between a secondary station(11) and a plurality of primary stations (20 and 134), refer to paragraph 0051, the system further comprising

- site selection means for selecting one or more of the plurality of primary stations (20 and 134), for transmission of data to the secondary station (11), wherein the site selection means is responsive to a plurality of metrics for determining the or each selected primary station for further data transmissions, refer to paragraphs 0051 and 0014.
- **As recited in claims 4 and 11**, wherein the primary station includes at least part of the site selection means, (refer to paragraph 0003, **The selection of base station may be determined from the power level received at the base station from the remote station, and/or from the power level received at the remote station from the base station.**).

For claim 10, Schilling discloses the following limitation:

- the site selection means comprises means for receiving the value of at least one metric signalled by the secondary station, refer to paragraph 0003.

For claim 12, Schilling discloses the following limitation:

- the site selection means comprises means for receiving the value of at least one metric signalled by a primary station, refer to paragraph 0003.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling, as above, in view of **Holtzman et al** (US Patent No. 2004/0008644), hereinafter, '644.

For claim 2, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by '644, as follows:

* means are provided for determining at least one of the metrics dynamically, refer to claim 6, page 7.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of "determining at least one of the metrics dynamically" as taught by '644. The capability can be implemented in Base Station. The motivation for providing power control requirement for channel for transmission of data.

11. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling, as above, in view of **Corke et al** (IS Patent No. 6,728,218), hereinafter, Corke.

For claim 3, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Corke, as follows:

- the site selection means is responsive to at least one of the following metrics:
path loss between a primary station and the secondary station', available power for data transmissions at a primary station', available channelisation codes at a primary station', interference levels at the secondary station', traffic loading', channel quality, and secondary station power requirements, refer to col. 3 line 65 through col. 4 line 3.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “the site selection means is responsive to at least one of the following metrics: path loss between a primary station and the secondary station', available power for data transmissions at a primary station', available channelisation codes at a primary station', interference levels at the secondary station', traffic loading', channel quality, and secondary station power requirements” as taught by Corke. The capability can be implemented in Base Station. The motivation for providing power control requirement for channel for transmission of data.

For claim 5, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Corke, as follows:

- site selection means comprises signalling means for signalling information relating to the value of at least one metric to the secondary station, refer to col. 2 lines 45-50..

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It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of site selection means comprises signalling means for signalling information relating to the value of at least one metric to the secondary station, as taught by Corke. The capability can be implemented in Base Station. The motivation for providing power control requirement for channel for transmission of data.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling, as above, in view of Corke, further, in view of **Love et al** (US Patent Application No. 2005/0003847), hereinafter, Love.

For claim 6, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Love, as follows:

- means are provided for pre-processing data relating to at least one metric before the information is signaled to the secondary station, refer to abstract.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of means are provided for pre-processing data relating to at least one metric before the information is signaled to the secondary station, as taught by Love. The capability can be implemented in Base Station. The motivation for providing power control requirement for channel for transmission of data.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling, as above, in view of Corke, further, in view of **Grube** (US Patent No. 5,446,553).

For claim 8, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Grube, as follows:

- a metric broadcast channel and in that means are provided for signalling the value of at least some of the metrics to be signaled by the signalling means via the metric broadcast channel , (refer to **“channel that is broadcasting the specific home system ID that the communication device is looking for. ---- The communication device keeps checking the integrity of signaling and quality metrics for its home system in step 510, so that it can judge when it has roamed outside its home system coverage area”, refer to col. 7 lines 5-21).**

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability a metric broadcast channel and in that means are provided for signalling the value of at least some of the metrics to be signaled by the signalling means via the metric broadcast channel. The motivation for providing power control requirement for channel for transmission of data.

14. Claims 13-14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling, as above, in view of **Di Huo et al** (US Patent No. 6,157,838), hereinafter, Di.

15. For claims 13-14, Schilling discloses all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Di, as follows:

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- **As recited by claim 13**, the site selection means comprises means for determining the value of at least one metric and for signalling information relating to that metric to a primary station, refer to col. 4 lines 27-65.
- **As recited by claim 14**, means are provided for pre-processing data relating to at least one metric before the information is signalled to the primary station, refer to col. 4 lines 27-65.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “the site selection means comprises means for determining the value of at least one metric and for signalling information relating to that metric to a primary station”, and means are provided for pre-processing data relating to at least one metric before the information is signalled to the primary station, as taught by Di. The capability can be implemented in Base Station. The motivation for providing power control requirement for channel for transmission of data.

Allowable Subject Matter

16. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Prior Art of Record

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Chen et al** (US Patent application No. 2001/0000221) discloses method and apparatus for directing zero rate frames in a communication system.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Inder P. Mehra
Inder P Mehra
Examiner
Art Unit 2666

12/6/05

DN
DANIEL
NATHAN